

**OTHER BUSINESS**  
**AGENCY DETERMINATION**

**June 25, 2014**

**Alexian Village Health & Rehab Center (Signal Mountain, Hamilton County), CN1110-042A**

Request for an Agency Determination as to whether the Certificate of Need was implemented prior to its expiration date of May 1, 2014.

May 30, 2014

VIA E-MAIL and U.S. Mail (jim.christoffersen@state.tn.us)

Mr. Jim Christoffersen  
Tennessee Health Services & Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, Tennessee 37243

Re: Alexian Village Health and Rehabilitation Center; CN1110-042A

Dear Jim:

As we discussed by phone, please accept this letter as a request on behalf of our client, Alexian Village Health and Rehabilitation Center ("Alexian"), for a formal agency determination pursuant to Health Services and Development Agency (HSDA) rule § 0720-08-.03. Alexian is requesting that the HSDA determine that Certificate of Need Project CN1110-042A was implemented prior to its expiration on May 1, 2014.

Background

On March 28, 2012, the HSDA heard Alexian's application for a replacement to its existing nursing home, and approved that application for a certificate of need. CN1110-042A was issued by the agency on April 25, 2012, with an expiration date of May 1, 2014. Alexian commenced construction of the replacement facility and has diligently pursued the construction, opening and operation of the facility from that point forward.

On April 23-24, 2014, a Life Safety Inspector from the Tennessee Department of Health ("TDH") inspected the facility. Based on the communications between Alexian and the TDH Life Safety Inspector during and at the conclusion of the inspection, the Facility believed that he had determined that the facility was ready for occupancy. In his conversation with representatives of Alexian and the project contractors, the inspector stated that he had electronically transmitted that information and recommendation, with the results of his inspection, to the TDH Licensure office. Additionally, Alexian received a Certificate of Substantial Completion from project architect Reese, Lower, Patrick & Scott, Ltd. stating the project was completed on April 25, 2014.<sup>1</sup>

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<sup>1</sup> "Substantial Completion" is defined by the American Institute of Architects (AIA) as the stage in the progress where the building is sufficiently complete in accordance with constitution contract documents so that the owner can occupy or use the building for its intended use.

Alexian's Position and Requested Determination

Alexian requests that the HSDA determine that Certificate of Need Project CN1110-042A was implemented prior to May 1, 2014, and that no further action is needed for the purposes of the certificate of need to allow the replacement facility to be licensed by the Department of Health. In making this request, we only ask that HSDA construe its own laws and regulations, and are not asking for any interpretation, modification, waiver, or other concession relative to the occupancy inspection process through the TDH. While TDH may have additional administrative functions to allow residents to receive services in the facility, Alexian in no way seeks to waive such actions. Rather, this request simply seeks a declaration from the HSDA that no CON impediments exist to allow TDH to complete those actions.

With respect to this issue, the relevant legal question is whether Alexian's CON has been implemented and/or completed, as the CON is the predicate for the ultimate operation of the new facility. We are unable to identify any other reference in the Tennessee Health Services and Planning Act of 2002 or the HSDA rules addressing the appropriate determination of when a CON project is ultimately "implemented." To that end, I would direct you to T.C.A. §68-11-1620. This provision pertains to the transfer of a certificate of need and the transfer of control of a new health care institution, which is prohibited prior to the implementation of the project. With respect to the timing of that implementation, the statute uses, in Section (b)(1), the words "prior to *completion* or licensing" (emphasis added). It is Alexian's position that this language supports the conclusion that for an existing licensed health care institution, completion of construction and inspection can be determined to constitute the implementation of the CON.

Based on the specific facts of Alexian's situation, including the inspection by the TDH Life Safety Inspector and the issuance of a Certificate of Substantial Completion from the project architect, Alexian is requesting that the HSDA determine the following:

*The Health Services and Development Agency determines that CN1110-042A, having been issued to Alexian Village Health and Rehabilitation Center on April 25, 2012, was implemented prior to its expiration date of May 1, 2014 based on the specific facts presented to the Agency in this matter.*

*That being the case, the Health Services and Development Agency determines that CN1110-042A satisfies and continues to satisfy the requirements of the applicable certificate of need laws for the purposes of allowing the occupancy and/or licensure of the newly constructed replacement nursing home. To the extent that the Department of Health requires a certificate of need for this entity to establish occupancy for the replacement facility, the Agency deems CN1110-042A to satisfy such legal requirements.*

Alexian is obviously sensitive to any of HSDA concerns relative to this case presenting a precedent for any subsequent situations. To that end, it stipulates to certain facts and conditions that we believe will limit the requested agency opinion to its facts and circumstances. Those facts and conditions are as follows:

*The Agency's decision is limited in application to this entity, and is based on the following factors that are integral to its decision:*

- 1. This decision is applicable only to this entity, and is predicated on the fact that the new facility is a replacement facility and not one to be newly licensed.*
- 2. The replacement facility has had a substantial inspection by the TDH Life Safety Inspector prior to the expiration of the certificate of need.*
- 3. The replacement facility obtained a Certificate of Substantial Completion from project architect prior to the expiration of the certificate of need.*
- 4. Ultimate occupancy of the new facility is to be determined by the Department of Health and its processes, and nothing in this order shall modify, amended, waive or otherwise affect any requirements that the Department of Health would place on the occupancy or commencement of operations of the new facility.*

Since the entity is now unable to proceed forward with the commencement of operations with its new facility, Alexian requests that this determination be heard as on the June HSDA agenda. To that end, we are requesting that the Executive Director to use her discretion to allow this issue to be put before the Agency members at the next meeting, as allowed under T.R.R. § 0720-08-.03(4)(a). We would ask to present our request orally at the meeting, in addition to any written materials we provide.

We are hopeful that this letter provides you with the requisite information to determine the appropriateness of our request and to properly put it before the Agency members. We are happy to supplement our request, and would certainly welcome the opportunity to discuss this with you at the appropriate time. We look forward to any discussion that may be needed with you to determine that the project has, in fact, been completed and the CON implemented.

Very truly yours,

BRADLEY ARANT BOULT CUMMINGS



Christopher Puri

CCP/cae  
Enclosure

## MEMORANDUM

**TO:** Health Services and Development Agency Members

**FROM:** Jim Christoffersen, General Counsel  
Health Services and Development Agency

**RE:** Request for HSDA Determination  
Alexian Village Health and Rehabilitation Center  
CN110-042A

**DATE:** June 13, 2014

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### The Agency's Rule

"An Agency determination represents a formal opinion of The Agency. Agency determinations are initially analyzed and drafted by staff, and presented to the full Agency during a regularly scheduled Agency meeting. The Agency may then adopt, reject, or modify staff's recommendation."<sup>1</sup>

### Facts

The above-referenced CON was issued to Alexian Village of Tennessee, Inc. for Alexian Village Health and Rehabilitation Center to replace its existing 114 bed nursing home at the same location. The expiration date of the CON was 5/1/14. Alexian Village had not requested an extension of its expiration date before the CON expired.<sup>2</sup> According to Alexian Village, the new building was "substantially complete" by 5/1/14; however, the Tennessee Department of Health [TDH] has not yet granted occupancy because the final inspection has not yet taken place. Several life safety inspections of health care facilities occur during the construction process, and the "90% inspection" had occurred; the final inspection includes both life safety and health surveyors deeming the building and program of service as compliant with the minimum standards for nursing homes promulgated by the Board for Licensing Health Care Facilities, and must occur before occupancy is granted. Therefore, Alexian Village could not have provided care in the replacement facility approved in this CON on or before 5/1/14, even if it had the necessary fixtures and equipment in place (which it did not).

Agency staff determined the project had not been implemented before its expiration date. This has stopped the project by operation of law,<sup>3</sup> absent a change in how it is determined when a CON has been "implemented."

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<sup>1</sup> Rule 0720---8---.03(4)

<sup>2</sup> Tennessee law does not provide the ability to extend the expiration date of a CON after it has already expired.

<sup>3</sup> T.C.A. §68-11-1609(d) provides: "A CON that has expired is null and void, and of no effect. No license or occupancy approval may be issued by the department of health or the department of mental health and developmental disabilities for any activity for which a CON has become null and void."

Issue:

When has a CON for a *Replacement Facility* Been “Implemented?”

Analysis:

Agency staff's long-standing position is that a CON has been implemented when the CON holder may begin providing care as authorized by the CON. For a new health care institution, this would occur upon licensure. For a licensed health care institution that is adding a service, major medical equipment or replacement facility, authorization from the licensing authority is the final occurrence prior to being able to provide the authorized care. By this reasoning, the final inspection and approval must be obtained before Alexian Village may provide care in the replacement facility.

Neither the CON statute nor Rules defines when a project has been implemented.

T.C.A. §68-11-1607(h) states that “[a]fter a person holding a certificate of need has completed the actions for which a certificate of need was granted, such certificate of need shall expire. Alexian Village would argue this means the substantial construction of a replacement facility, rather than being able to use it. Alexian Village argues that language in the *Change of Control* section of our statute pertaining to the establishment of a new health care institution, which references such occurring prior to completion or licensing of a new health care institution,<sup>4</sup> supports their argument; unfortunately, that language does not seem to clarify when the CON holder has “completed the actions for which a certificate of need was granted.”

If the Agency were to agree with Alexian Village's interpretation, the law would not constrain its ability to interpret the law that way. However, it would be a clear change in how staff has interpreted the law for as long as can be remembered, and no doubt would leave many CON holders wondering why they had requested extensions<sup>5</sup> in anticipation of time needed for completion of the TDH inspection and approval process. Such a change in policy would leave several health care institutions wondering why they had to re-apply after similarly realizing too late that their CONs would/had expired.

While Alexian Village's failure to request an extension has created an unfortunate situation, accommodating its request could set staff on a slippery slope regarding the gray area of “substantial completion” of this and other types of projects. At what moment during the process would construction be sufficiently complete? What things can remain yet to be completed? What about other projects, such as acquisition of major medical equipment? Agency guidance would be necessary to ensure that both regulators and the regulated have a clear understanding of the target for satisfying the statute.

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<sup>4</sup> T.C.A. §68-11-1620(b)

<sup>5</sup> CON law and Rule both provide for the extension of expiration dates before they have expired. Such requests are frequently approved at Agency meetings during the General Counsel's report.



## State of Tennessee

### Health Services and Development Agency

Andrew Jackson, 9<sup>th</sup> Floor, 502 Deaderick Street, Nashville, TN 37243

[www.tn.gov/hsda](http://www.tn.gov/hsda)

Phone: 615-741-2364

Fax: 615-741-9884

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June 25, 2014

Christopher Puri, Esq.  
Bradley Arant Boult Cummings  
1600 Division St., Suite 700  
Nashville, TN 37203

**RE: Agency Determination Letter No. 2014-001**  
**Alexian Village Health and Rehabilitation Center, CN110-042A**

Mr. Puri:

The Health Services and Development Agency made an Agency Determination at its June 25, 2014 meeting that Alexian Village Health and Rehabilitation Center had not completed the actions for which the above-referenced certificate of need [CON] was granted by its expiration on 5/1/14. The Tennessee Department of Health had neither conducted its final inspection nor granted occupancy; Alexian Village could not have provided health care services at the replacement facility as authorized by the CON.

T.C.A. §68-11-1609(d) provides: "A CON that has expired is null and void, and of no effect. No license or occupancy approval may be issued by the department of health or the department of mental health and developmental disabilities for any activity for which a CON has become null and void."

This Agency Determination is based upon the facts as presented. Should these facts change, this determination would also be subject to change.

Health Services and Development Agency

By: \_\_\_\_\_  
Lynn Johnson, Chair

LJ/jbc

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**Alexian Village**

Melanie Hill

**Sent:** Thursday, June 12, 2014 1:20 PM**To:** Puri, Chris [cpuri@boultcummings.com]; Brent, Michael D (MBRENT@babco.com)**Cc:** Jim Christoffersen; Mark Farber

Chris and Mike,

We have reviewed the information previously submitted on Alexian Village. The Agency Staff position continues to be that the CON was not implemented prior to the May 1 expiration date.

Your request for an Agency Determination will be heard at the June 25 Agency meeting. If you would like to submit additional information for Agency review, please let me know as soon as possible.

*Melanie*

Melanie M. Hill, Executive Director  
Tennessee Health Services and Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, TN 37243

[www.tn.gov/hsda](http://www.tn.gov/hsda)

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## Melanie Hill

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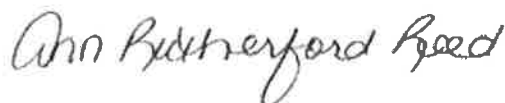
**From:** Ann R. Reed  
**Sent:** Wednesday, June 04, 2014 3:40 PM  
**To:** Bill Harmon; Melanie Hill; Vincent Davis; Michelle J. Long; Trent Sansing  
**Cc:** Jim Christoffersen; Mark Farber; Diona Layden; Kyonzte Hughes-Toombs  
**Subject:** RE: Alexian Village Health and Rehabilitation Center; CN1110-042A

Melanie

I believe Bill addressed the majority of the questions you posed in your e-mail of 6/2 below. I will provide additional information to each question which should complete the response for each.

1. It has been indicated by life safety surveyors they were unable to verify contents for the purpose of fuel load and combustibility. This may further be explained by Bill.
2. To add to Bill's response below, the procedurally the CD was not submitted and approved by the reviewer in Plans Review.
3. For a replacement/relocation of a facility, the survey for occupancy must be conducted by both life safety and health surveyors. The health surveyors will review that policies and procedures have been properly instituted in the new location, appropriate staffing patterns are in place, and as you indicate in your e-mail crash carts, med carts, etc would be reviewed. The replacement facility has been built in order to facilitate a social model of care vs a medical model. This new model of care would require review by our health surveyors to determine staff have been properly trained in the model.

If you need any further information, please let me know. I can coordinate with Bill to determine his availability to attend the June 25<sup>th</sup> meeting and will let you know.



Ann Rutherford Reed, RN, BSN, MBA  
Director of Licensure  
Division of Health Licensure and Regulation  
Office of Health Care Facilities  
665 Mainstream Drive, 2<sup>nd</sup> Floor  
Nashville, TN. 37243  
Office Telephone (615)741-7221  
Direct Telephone (615)532-6595  
Fax (615)253-8798  
[ann.r.reed@tn.gov](mailto:ann.r.reed@tn.gov)

Connect with TDH on [Facebook](#) and [Twitter@TNDeptofHealth!](#)

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*I know we are going to have more questions about the Alexian Village replacement facility since the CON expired prior to the facility obtaining occupancy from TDH. It will help if I can understand your process for determining occupancy when a replacement facility is being constructed. In a licensed health care facility, licensure (and/or occupancy) has always been our test of project completeness, if required.*

*First, occupancy has nothing to do with a facility being new or a replacement. Our decision is based on the building and all life safety features being complete, operational and fully functioning.*

*Chris Puri's May 9 letter on Alexian Village's behalf alleges that TDH inspected the replacement facility on April 23-24 and determined it was complete. Is that true and if not, why?*

*Chris Puri's May 9 allegations are not completely correct. Our fire safety inspector did perform a construction inspection on April 23 but could not recommend occupancy at that time.*

*It is my understanding that Alexian submitted building plans which were approved, constructed the building, and had TDH inspections throughout the process. At what point do you conduct inspections ( I have heard percentages referred to- I believe a 90% inspection was referred to) and what do you review at each point?*

*Architectural plans were submitted on May 29, 2012 and approval to begin construction was issued on June 27, 2013. Inspections are coordinated and scheduled with contractors on an 'as needed basis'. It is impossible to predetermine an exact number of inspections required for each project or the specific stage of construction to establish a percentage of completion. Each project can and will be specifically different based on a multitude of things such as but not limited to the architectural design and size, issues of complex nature, experience of contractor(s), new or existing construction and even the weather.*

*In this particular case, what did you find at the last inspection? Was this the 90% inspection, were there deficiencies and if so, what was cited?*

*We typically reference a 90% inspection when the contractor nears completion but is not ready for the final.*

*In this particular case, what types of construction or life safety code issues had to be resolved between the 90% and final inspection?*

*Although my life safety inspector was satisfied with construction on April 23rd a final inspection was and has not scheduled with East TN nurses and a CD had not been submitted therefore he was unable to reference this as the final inspection.*

*It is my understanding that a final inspection had not been scheduled because a CD of the building plans had not been submitted by the architect. Is that true? Is the CD of the plans crucial to determining whether the building is safe for occupancy?*

*The CD does not determine if the building is safe it is however as with all paperwork, a procedural function for issuance of the recommendation for occupancy.*

Here are my additional questions:

- 1) Was the building (and its life safety features) complete, operational, and fully functional on April 23<sup>rd</sup>. If not, can you describe what problems were found or what could not be determined ( which life safety systems were not tested, for example)?
- 2) Can you describe the reason(s) occupancy could not be approved on April 23? For example, were there life safety code issues that had to be resolved or was it procedural, such as the CD of the building plans had not been submitted so the final inspection was not scheduled?
- 3) Bill's e-mail indicates the LSC inspector was satisfied with construction during the April 23 inspection but that the East TN nurses hadn't been scheduled and the CD of the architectural plans hadn't been submitted. What do the nurses review during an occupancy inspection? I understand that if this were a new nursing home, the nurses would be reviewing policies and procedures, crash carts, med carts, and a number of other important issues. However, this is a replacement facility on the existing campus so I would suppose that much of the patient care equipment would be moved. Examples of what the nurses would review during the final occupancy would be helpful.

At least 3 of the Agency Board members are very familiar with the facility inspection process since they represent hospitals, nursing homes, and surgery centers. Will Bill or someone very familiar with building codes and life safety issues be available to answer technical questions on June 25?

Thank you for your assistance.

*Melanie*

Melanie M. Hill, Executive Director  
Tennessee Health Services and Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, TN 37243

[www.tn.gov/hsda](http://www.tn.gov/hsda)  
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---

**From:** Puri, Christopher [<mailto:cpuri@babbc.com>]  
**Sent:** Friday, May 30, 2014 4:21 PM  
**To:** Jim Christoffersen  
**Cc:** Melanie Hill  
**Subject:** Alexian Village Health and Rehabilitation Center; CN1110-042A

As we discussed, this is our request for determination to be timely filed in case it is required. Mail copy to follow.

**Christopher C. Puri**  
**BRADLEY ARANT BOULT CUMMINGS LLP**  
Roundabout Plaza | 1600 Division Street, Suite 700 | Nashville, TN 37203  
615.252.4643 (d) | 615.252.4706 (f) | [cpuri@babbc.com](mailto:cpuri@babbc.com) | [www.babbc.com](http://www.babbc.com)



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**RE: Alexian Village**

Jim Christoffersen

**Sent:** Tuesday, June 03, 2014 12:08 PM

**To:** Kyonzte Hughes-Toombs

**Cc:** Melanie Hill

Would 90% occupancy approval prior to May 1st have permitted Alexian to occupy the building as far as TDH is concerned?

Jim Christoffersen

General Counsel

Tennessee Health Services and Development Agency

Andrew Jackson Bldg., 9th Fl.

502 Deaderick St.

Nashville, TN 37243

(615) 741-2364

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**From:** Kyonzte Hughes-Toombs

**Sent:** Tuesday, June 03, 2014 12:00 PM

**To:** Jim Christoffersen

**Cc:** Melanie Hill

**Subject:** RE: Alexian Village

Is the ability to occupy the premises all or nothing? I ask because the facility had received a 90% occupancy approval prior to May 1<sup>st</sup>.

**KYONZTÉ HUGHES-TOOMBS, ESQ., MBA, LLM**

Assistant General Counsel

Tennessee Department of Health

Office of General Counsel

665 Mainstream Drive, 2<sup>nd</sup> Floor

Nashville, TN 37243

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**From:** Jim Christoffersen

**Sent:** Tuesday, June 03, 2014 11:57 AM

**To:** Kyonzte Hughes-Toombs

**Cc:** Melanie Hill

**Subject:** RE: Alexian Village

Per TN law and HSDA Rule, an expiration date can only be extended before the CON has expired. That is why the CON holder being able to occupy the premises on or before that date is important.

Jim Christoffersen  
General Counsel  
Tennessee Health Services and Development Agency  
Andrew Jackson Bldg., 9th Fl.  
502 Deaderick St.  
Nashville, TN 37243

(615) 741-2364

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**From:** Kyonzte Hughes-Toombs  
**Sent:** Tuesday, June 03, 2014 11:34 AM  
**To:** Jim Christoffersen  
**Subject:** Alexian Village

Hi Jim,

I am writing in regard to Alexian Village. I had a meeting last week with Chris Puri, attorney for Alexian Village, as well as several members of Alexian's management team. We discussed the occupancy date for Alexian's new building from a Department of Health standpoint.

Under the Department's rules, a final inspection does not occur until a cd containing a copy of the final approved plans is received. Initially, Alexian submitted the plans on multiple cds prior to May 1st. Under a strict interpretation of the rules, Alexian was required to resubmit the plans on a single cd. The single cd was not submitted until May 7<sup>th</sup>.

At this point, the Department of Health can send a surveyor out to do the final inspection within a couple of weeks. Assuming that everything is ok, the building will be ready for occupancy within a couple of weeks. Is there any wiggle room on your end in regard to the May 1<sup>st</sup> expiration date?

Kyonzte Hughes-Toombs

**KYONZTÉ HUGHES-TOOMBS, ESQ., MBA, LLM**

Assistant General Counsel  
Tennessee Department of Health  
Office of General Counsel  
665 Mainstream Drive, 2<sup>nd</sup> Floor  
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Christopher C. Puri  
(615) 252-4643  
Fax: (615) 252-4706  
Email: cpuri@babbc.com

May 9, 2014

VIA EMAIL (jim.christoffersen@state.tn.us)

Mr. Jim Christoffersen  
Tennessee Health Services & Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, Tennessee 37243

Re: Alexian Village Health and Rehabilitation Center; CN1110-042A

Dear Jim:

We are in receipt of your letter dated May 7, 2014 regarding the status of Certificate of Need No. CN1110-042A, Alexian Village Health and Rehabilitation Center ("Alexian"). As we discussed yesterday by phone, please find attached the final project report for this project.

It is Alexian's position that the certificate of need ("CON") has been implemented and was completed prior to its expiration on May 1, 2014. On April 23-24, 2014, a Life Safety Inspector from the Tennessee Department of Health ("TDH") inspected the facility and determined the facility was complete and ready for occupancy. In his conversation with the facility, he stated that he had electronically transmitted the information, and the results of his information, to the Department of Health Licensure office. Additionally, Alexian received a certificate of substantial completion from project architect Reese, Lower, Patrick & Scott, Ltd. stating the project was completed on April 25, 2014.<sup>1</sup> Alexian's position is that it has completed the project and no other actions on its behalf are necessary.

As we discussed, because this CON is for a replacement facility, the existing nursing home license for Alexian Village Health and Rehabilitation Center is in place. Pursuant to a conversation I had with the TDH, there is not a "new" license issued to the facility. As I understand it, a notation of the new location is made in the facility's licensure file or profile. To that end, it is Alexian's position that a replacement facility is factually different from a new facility or project that is not currently licensed and is obtaining initial licensure. In this case, where a replacement facility has been determined to be complete from a construction standpoint and has had inspection and approval of its physical plant by the licensure agency, the project is therefore complete and the certificate of need is implemented.

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<sup>1</sup> "Substantial Completion" is defined by the American Institute of Architects (AIA) as the stage in the progress where the building is sufficiently complete in accordance with constitution contract documents so that the owner can occupy or use the building for its intended use.

Mr. Jim Christoffersen

May 9, 2014

Page 2

With respect to this issue, the relevant legal question is whether Alexian's CON has been completed, and not whether the project has been "licensed," as the CON is the predicate for the ultimate operation of the new facility. We are unable to identify any other reference in the Tennessee Health Services and Planning Act of 2002 or the HSDA rules addressing the appropriate determination of when a CON project is ultimately "implemented." To that end, I would direct you to T.C.A. §68-11-1620. This provision pertains to the transfer of a certificate of need and the transfer of control of a new health care institution, which is prohibited prior to the implementation of the project. With respect to the timing of that implementation, the statute uses, in Section (b)(1), the words "prior to *completion* or licensing" (emphasis added). It is Alexian's position that this language supports the conclusion that for an existing licensed health care institution, completion of construction can and does constitute implementation of the CON.

If you, Melanie or the HSDA have questions about the project or final report, or if you need additional information, please let me know and we will obtain those facts or additional information. We look forward to any discussion that may be needed with you to determine that the project has, in fact, been completed and the CON implemented.

Very truly yours,

BRADLEY ARANT BOULT CUMMINGS

A handwritten signature in cursive script that reads "Christopher C. Puri".

Christopher Puri

CCP/cae  
Enclosure





## State of Tennessee

### Health Services and Development Agency

Andrew Jackson Building, 9th Floor, 502 Deaderick Street, Nashville, TN 37243

www.tn.gov/hsda

Phone: 615-741-2364

Fax: 615-741-9884

## FINAL PROJECT REPORT

Please TYPE or PRINT legibly.

Certificate of Need No. CN1110-042A

Project Name: Alexian Village Health and Rehabilitation Center

Owner: Alexian Village of Tennessee, Inc Contact: Robin Baschnagel/Scott Norton

Description: The project involves the construction of a replacement nursing home consisting of 114 beds. All of the new rooms will be either private rooms or shared private rooms. Finished project will consist of approximately 101,436 square feet of space.

Total Bed Complement Before Addition 114  
Total Bed Complement 114

What was the Final Completion Date (opened for public use)?

April 25, 2014

Was the project completed as certified?

☒ YES

☐ NO

(If not, describe any changes, deletions, and/or additions on additional sheets.)

COST FACTORS	Original	Final
	Cost Projection	Project Cost
A. Construction and equipment acquired by purchase:		
1. Architectural and Engineering Fees	225,000	1,260,000
2. Legal, Administrative (Excluding CON Filing Fee), Consultant Fees	50,000	120,000
3. Acquisition of Site		
4. Preparation of Site	1,580,000	1,580,000
5. Construction Costs	18,433,154	18,433,154
6. Contingency Fund	2,000,000	350,000
7. Fixed Equipment (Not included in Construction Contract)	150,000	150,000
8. Moveable Equipment (List all equipment over \$50,000)		720,000
Other (Specify) <u>Cooling Tower</u>	175,000	Incl in const costs
9. Subtotal	<u>22,613,154</u>	<u>22,613,154</u>
B. Acquisition by gift, donation, or lease:		
1. Facility (inclusive of building and land)		
2. Building only		
3. Land only		
4. Equipment (Specify) _____		
Other (Specify) _____		
5. Subtotal		
C. Financing Costs and Fees:		
1. Interim Financing		
2. Underwriting Costs		
3. Reserve for One Year's Debt Service		

Other (Specify) \_\_\_\_\_  
4. Subtotal

\_\_\_\_\_  
\_\_\_\_\_

D.	Estimated Project Cost (A+B+C)	22,613,154	22,613,154
E.	CON Filing Fee	45,000	45,000
F.	<u>Total Estimated Project Cost (D+E)</u>	<u>22,658,154</u>	<u>22,658,154</u>

FINAL COST† \$ 22,658,154

FINAL FILING FEE‡ \$ 0

If the final project cost is an overrun of the estimated project cost, describe in detail all increases in final costs from those originally projected.

No project cost overrun of the estimated project cost.

The Final Filing Fee to be assessed on any cost overrun is to be computed at the rate current at the time the project was certified. Below is the outline of the rates from January 1994 through the present.

PERIOD	FEE per \$1,000	MAXIMUM--MINIMUM	FINAL FILING FEE
January 30, 1994 through Present	\$2.25/\$1,000	\$3,000--\$45,000	\$2.25/\$1,000 Total filing fee (initial plus final) not to exceed \$45,000.

I hereby certify that this information is true to the best of my knowledge, information, and belief, and that supplemental written notification will be filed with the Tennessee Health Services and Development Agency in the event of any change in the information given in this report.

  
Chief Operating Officer

May 7, 2014  
Date

HF-0055

Revised 1/05 - All forms prior to this date are obsolete.



State of Tennessee

Health Services and Development Agency

Andrew Jackson, 9<sup>th</sup> Floor, 502 Deaderick Street, Nashville, TN 37243  
www.tn.gov/hsda Phone: 615-741-2364 Fax: 615-741-9884

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May 7, 2014

Robin Baschnagel, CEO  
Alexian Village Tennessee

via email: [raschnagel@alexianbrothers.net](mailto:raschnagel@alexianbrothers.net)

**RE: Alexian Village Health and Rehabilitation Center  
Certificate of Need No. CN1110-042A**

Dear Mr. Baschnagel:

The above-referenced certificate of need [CON] was issued to Alexian Village of Tennessee, Inc. for Alexian Village Health and Rehabilitation Center to replace its existing 114 bed nursing home. The expiration date of the CON was May 1, 2014. "A CON that has expired is null and void, and of no effect. No license or occupancy approval may be issued by the department of health or the department of mental health and developmental disabilities for any activity for which a CON has become null and void." T.C.A. §68-11-1609(d). Tennessee law does not provide the ability to extend the expiration date of a CON after it has already expired.

Unless licensure has been obtained, effective on or before May 1, 2014, a new CON would have to be obtained prior to replacing Alexian Village Health and Rehabilitation Center's existing 114 bed nursing home.

Please do not hesitate to contact me if you have any questions.

Sincerely,

James B. Christoffersen  
General Counsel

cc: Ann Reed, Director of Licensure  
Division of Health Licensure and Regulation  
Tennessee Department of Health

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## Melanie Hill

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**From:** Ann R. Reed  
**Sent:** Tuesday, May 06, 2014 10:21 AM  
**To:** Melanie Hill  
**Cc:** Vincent Davis  
**Subject:** Alexian Village Health and Rehabilitation Center

Melanie

We have an issue with the above facility. Alexian obtained a CON for a replacement facility in March of 2012 with an expiration date of May 1, 2014. The facility has not completed all necessary requirements for occupancy to be granted for the replacement facility. Nelson Rodriguez the fire safety supervisor has been in contact this am with the administrator, Scott Norton, regarding the expiration date of the CON. Apparently, Mr. Norton is going to contact you regarding this. Mr. Norton also informed Nelson that they received a CON to add 19 beds. I don't see that on the CON I have. What would be the next steps from the CON side in order to move this forward?



Ann Rutherford Reed, RN, BSN, MBA  
Director of Licensure  
Division of Health Licensure and Regulation  
Office of Health Care Facilities  
665 Mainstream Drive, 2<sup>nd</sup> Floor  
Nashville, TN. 37243  
Office Telephone (615)741-7221  
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Fax (615)253-8798  
[ann.r.reed@tn.gov](mailto:ann.r.reed@tn.gov)

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"The mission of the Tennessee Department of Health is to protect, promote, and improve the health and prosperity of people in Tennessee."

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STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. CN1110-042A is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Alexian Village of Tennessee, Inc.  
437 Alexian Way  
Signal Mountain, TN 37377

For: Alexian Village Health and Rehabilitation Center

This Certificate is issued for: The replacement of the existing 114-bed nursing home. The proposed new facility will remain on the Alexian Village of Tennessee campus, moving from 671 to 622 Alexian Way, Signal Mountain (Hamilton County), TN 37377. There will be no change in the number of beds at the facility, no new services will be initiated, and no services will be discontinued.

On the premises located at: 622 Alexian Way  
Signal Mountain (Hamilton County), TN 37377

For an estimated project cost of: \$22,658,154.00

The Expiration Date for this Certificate of Need is

May 1, 2014

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: March 28, 2012

Carl Ohm Keenan  
Chairman

Date Issued: April 25, 2012

\_\_\_\_\_  
Executive Director

Howard, Bro. John, Community Director, Alexian Brothers Residence  
Lambdin, Leeann, Planning, St. Thomas Health Services  
Linn, Laura, Sr. Planning Analyst, Mountain State Health Alliance  
Looney, Kim Harvey, Esq., Waller Lansden Dortch & Davis  
Marshall, John, CEO, Horizon Medical Center  
McMullin, DeWayne, CFO, Alexian Brothers Health System  
Merville, LaDonna, Vice President, Hospital Alliance of Tennessee  
Moore, Carl  
Ockerman, Jeff, Director, Division of Health Planning, Tennessee Department of Finance & Administration  
Phillips, Kevin, Partner, Jarrard Phillips Cate & Hancock, Inc.  
Puri, Christopher, Esq., Bradley Arant Boult Cummings, LLP  
Reed, Ann, R., RN, BSN, MBA, Director of Licensure, Div. of Health Care Facilities, Tenn. Dept. of Health  
Standridge, Dr. John, Medical Director, Alexian Village of Tennessee  
Tally, Sarah Lodge, Esq., Miller & Martin  
Taylor, Jerry W., Esq., Farris, Mathews, Bobango, PLC  
Trauger, Byron R., Esq., Trauger & Tuke  
Turongian, John M., Vice President, Senior Ministries, Alexian Brothers Health System

**Chairman Koella called the meeting to order at 8:30 a.m. in the Main Auditorium, of the AT&T Tower, Nashville, Tennessee.**

Mr. Koella announced the retirement of Danell Corritore, Director, Certificate of Need Unit, Tennessee Department of Health and stated how much the Agency appreciated her years of service. Mr. Koella extended condolences to Ron Hill in the loss of his son, Eric, and requested a moment of silence in Eric's honor.

#### **DIRECTOR'S ANNOUNCEMENTS**

Melanie Hill, Executive Director, gave a brief outline of Ms. Corritore's years of service with the State and extended well wishes with her retirement. Ms. Hill made general announcements and stated the following: Item B, NHC at Indian Path is withdrawn; applications to be heard in the upcoming meetings -- two (2) for April, eight (8) for May and possibly seven (7) for June; and the April through May or June meetings are scheduled to be held at the AT&T Tower and the remainder of the 2012 meetings will be held at Legislative Plaza.

#### **OTHER BUSINESS**

- 1) State Health Plan -- Jeff Ockerman, Director, Division of Health Planning, Finance & Administration discussed the status of the state health plan.

#### **CERTIFICATE OF NEED APPLICATIONS**

*Mark Farber summarized the following CON applications:*

##### **Alexian Village Health and Rehabilitation Center - (Signal Mountain, Hamilton County) - Project No. CN1110-042**

The replacement of the existing 114-bed nursing home. The proposed new facility will remain on the Alexian Village of Tennessee campus, moving from 671 to 622 Alexian Way, Signal Mountain (Hamilton County), TN 37377. There will be no change in the number of beds at the facility, no new services will be initiated, and no services will be discontinued. Project Cost \$22,658,154.00.

#### **DEFERRED FROM THE JANUARY MEETING**

Christopher C. Puri, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: DeWayne McMullin, CFO, Alexian Brothers Health System; and Tim Booth, Regional Director of Finance, Alexian Brothers Health System. Present in support of the project were: Dan H. Elrod, Esq.; John M. Turongian, Vice President, Senior Ministries, Alexian Brothers Health System; Dr. John Standridge, Medical Director, Alexian Village of Tennessee; Debra Baker, Director of Quality & Staff Development, Alexian Village of Tennessee; Matthew Fox, President/CEO, Alexian Village of Tennessee; Bro. John Howard, Community

Director, Alexian Brothers Residence; and Kelly Clancy, Vice President, External Affairs, Alexian Brothers Health System.

Mr. Lammert moved for approval of the project based on: 1) Need – The need has been proved by the current census and residents of the facility; 2) Economic Feasibility – The project's economic feasibility is met with cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by improving the facility and providing better access to patients and residents that live there. Ms. Burns seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Burns, Doolittle, Lammert, Johnson, Weaver, Haik, Southwick, Koella  
NAY: None

**NHC at Indian Path - (Kingsport, Sullivan County) - Project No. CN1106-022**

The establishment of a new thirty (30)\* bed nursing home certified for Medicare participation. The project will be located in the existing building at the site of the old Indian Path Pavilion. Project Cost \$7,060,851.00.

\* These beds are subject to the 125 Nursing Home Bed Pool for 2010 – 2011.

**DEFERRED FROM THE DECEMBER MEETING  
WITHDRAWN**

*Mr. Southwick recused.*

**St. Thomas Outpatient Imaging - St. Thomas - (Nashville, Davidson County) - Project No. CN1110-039**

The establishment of an outpatient diagnostic center (ODC) in 7,737 gross square feet of leased space within a medical office building located on the campus of St. Thomas Hospital. The ODC will be established through construction and renovations. The facility will augment diagnostic imaging services currently provided by St. Thomas Hospital and will provide radiographic/fluoroscopic imaging, CT scanning, ultrasound imaging, and MRI services. Project Cost \$4,180,545.00.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency. Chad Calendine, M.D., President, St. Thomas Outpatient Imaging spoke on behalf of the project; and Mark Gaw, CFO, St. Thomas Outpatient Imaging was present.

Ms. Burns moved for approval of the project based on: 1) Need – The need is met as it provides more cost effective services, and better technology for the community; 2) Economic Feasibility – The project is economically feasible based upon cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by providing better access to patients. Mr. Doolittle seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Burns, Doolittle, Lammert, Johnson, Weaver, Haik, Koella  
NAY: None

*Mr. Southwick recused.*

**St. Thomas Outpatient Imaging - Baptist - (Nashville, Davidson County) - Project No. CN1112-052**

The initiation of PET/CT services and the acquisition of PET/CT equipment. If approved, Baptist Hospital will retire its PET/CT and all PET scans performed on the Baptist campus will be at St. Thomas Outpatient Imaging-Baptist. The project does not contain any other type of major medical equipment or seek to initiate any other health service. Project Cost \$895,598.00.

Sarah Lodge Tally, Esq., representing the applicant, addressed the Agency. Chad Calendine, M.D., President, St. Thomas Outpatient Imaging spoke on behalf of the project; Dan H. Elrod, Esq. and Mark Gaw, CFO, St. Thomas Outpatient Imaging were present.